

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED *g*
05 APR 26 2005
ROBERT H. DILLON
CLERK, U.S. DISTRICT COURT
W.D. OF TN, MEMPHIS

ROGER D. RILEY,

Plaintiff,

v.

04-1267 TP

WAL-MART Store #335, WAL-MART
ASSOCIATES, INC., WAL-MART
STORES, INC., WAL-MART STORES
EAST, INC., A & M CLEANING
PRODUCTS, INC., BIO-LAB, INC.,
as a wholly-owned subsidiary of
GREAT LAKES CHEMICAL
CORPORATION, and GREAT LAKES
CHEMICAL CORPORATION,
Individually,

Defendants.

ORDER DENYING WITHOUT PREJUDICE DEFENDANTS' MOTION
AND AMENDED MOTION FOR LEAVE TO FILE AMENDED ANSWER

Before the Court are Defendants Wal-Mart Store #335, Wal-Mart Associates, Inc., Wal-Mart Stores, Inc., and Wal-Mart Stores East, Inc.'s Motion for Leave to File Amended Answer, filed on April 19, 2005 (dkt #11) and Amended Motion for Leave to File Amended Answer, filed on April 20, 2005 (dkt #16). For the reasons given below, Defendants' motions are DENIED WITHOUT PREJUDICE.

Defendants filed nearly identical motions on consecutive days. The amended motion fails to explain Defendants' reasoning for


submitting an amended motion. On review, the Court only finds two differences between the two motions. First, the proposed answer attached to the amended motion includes the language "other co-defendants and" in paragraphs 36 and 37, which is not in the proposed answer attached to the original motion. Second, the original certificate of consultation indicates that the Defendants attempted, but failed, to contact the Plaintiff. The amended certificate of consultation indicates that the Defendants contacted counsel for the Plaintiffs, but it does not state whether the plaintiff consented or opposed the relief sought.

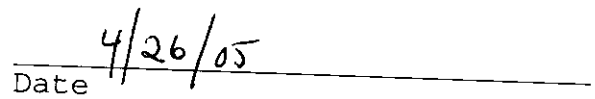
Local Rule 7.2(a)(1)(B) provides that "All motions, . . . shall be accompanied by a certificate of counsel . . . affirming that, after consultation between the parties to the controversy, they are unable to reach an accord as to all issues or that all other parties are in agreement with the action requested by the motion. Failure to file an accompanying certificate of consultation may be deemed good grounds for denying the motion." Although the Wal-Mart Defendants filed a certificate of consultation with their motion, the certificate does not indicate whether the plaintiff consents or opposes the relief sought.

Accordingly, the motion is DENIED WITHOUT PREJUDICE. Defendants shall have seven (7) days from the date of this order to comply with Local Rule 7.2(a)(1) and renew her motions. Failure to

comply with this order will result in denial of Defendants' motions with prejudice.

IT IS SO ORDERED.


TU M. PHAM
United States Magistrate Judge


Date



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Honorable James Todd
US DISTRICT COURT